

**THE COUNTY BULLETIN
and Uniform Compliance Guidelines
ISSUED BY THE STATE BOARD OF ACCOUNTS**

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October 1997

REMINDER OF ORDER OF BUSINESS

October

- 1 Last date for County Board of Tax Adjustment [except Marion County and in a county containing a second class city (November 1)] to complete its duties. (IC 6-1.1-17-9(a))
 - 13 Columbus Day - Legal Holiday (IC 1-1-9-1)
 - 15 Last day to make pension report and payment for third quarter by counties participating in Public Employee's Retirement Fund.
 - 20 Last day to report and make payment of State Income Tax withheld in September to Indiana Department of Revenue.
 - 22, 23, 24 County Auditor's Fall Conference - West Lafayette, Indiana
 - 31 Last day to file quarterly unemployment compensation report with the Indiana Employment Security Division.
- Last day to report and make payment of balance of Federal Income Tax withheld in the third quarter to Internal Revenue Service.
- Last day Annual Tax Sale can be held. [IC 6-1.1-24-2(a)(8)]

November

- 1 Issue tax sale certificates to County for properties offered in tax sale for two consecutive years and unsold at the 1997 Tax Sale. (IC 6-1.1-24-6)
- 2 Last day for county auditor to certify to the division of state court administration the amount, if any, the county will be providing to the judge's salary during the ensuing calendar year. (IC 33-13-12-7.1(b))

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REMINDER OF ORDER OF BUSINESS
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November

- 10 Last day for paying second installment of taxes without penalty. Start preparing for settlement of second installment tax collections. (IC 6-1.1-37-10)
- 11 Veterans' Day - Legal Holiday. (IC 1-1-9-1)
- 20 Last day to report and make payment of State Income Tax withheld in October to Indiana Department of Revenue.
- 27 Thanksgiving Day - Legal Holiday. (IC 1-1-9-1)

December

- 1 On or before this date, certify names and addresses of persons who have money due to them for salaries, wages or other reasons to County Treasurer, for determining if such persons owe delinquent taxes. (IC 6-1.1-22-14)

At regular meeting of Board of Commissioners consideration may be given to appointments of certain personnel and to bids and awards for highway supplies, materials and equipment for 1998.
- 8 Each local board of finance shall file with the board for depositories a list of the designated depositories of public funds.
- 20 Last day to report and make payment of State Income Tax withheld in November to Indiana Department of Revenue.
- 25 MERRY CHRISTMAS!! Legal Holiday. (IC 1-1-9-1)
- 31 Review year-end duties.

Post and close all records completely and promptly.

The Auditor should balance with the Treasurer and verify the amount of cash in the Treasurer's office, if field examiners or a successor Treasurer are not available to verify the cash count.

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REMINDER OF ORDER OF BUSINESS
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December

- 31 Cash Change Funds issued to any county officer whose term expires must be returned to the County General Fund.

ADVANCE TAX SETTLEMENTS - LIMIT - PROCEDURE

Every county treasurer who, by virtue of the treasurer's office, is the collector of any taxes for any political subdivision wholly or partly within the county shall, upon a written request for funds filed with the treasurer by a proper officer of any political subdivision within the county, advance to that political subdivision a portion of the taxes collected before the semiannual distribution. The amount advanced may not exceed the lesser of:

- (1) ninety-five percent (95%) of the total amount collected at the time of the advance; or
- (2) ninety-five percent (95%) of the amount to be distributed at the semiannual distribution.

The request for funds must be filed at least thirty (30) days before the county treasurer is required to make the advance. Upon notice from the county treasurer of the amount to be advanced, the county auditor shall draw a warrant upon the county treasurer for the amount. The amount of the advance must be available immediately for the use of the political subdivision.

At the semiannual distribution all the advances made to any political subdivision shall be deducted from the total amount due any political subdivision as shown by the distribution. (IC 5-13-6-3)

EXCESS TAX COLLECTED - SURPLUS TAX FUND - UNCLAIMED FUNDS

Any payments in excess of the taxes and special assessments due, as shown by the tax duplicate or special assessment records, shall constitute a special fund to be known as a "surplus tax fund." Amounts placed in the fund shall first be applied to the taxpayers delinquent taxes in the manner provided in IC 6-1.1-23-5(b). The taxpayer may then file a verified claim for money remaining in the surplus tax fund. The county treasurer or county auditor shall require reasonable proof of payment by the person making the claim, which may include, in part, evidence of

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EXCESS TAX COLLECTED - SURPLUS TAX FUND - UNCLAIMED FUNDS
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payment specified in IC 6-1.1-22-12. If the claim is approved by the county auditor and the county treasurer, the county auditor shall issue a warrant to the taxpayer for the amount due the taxpayer.

At the time of each semiannual settlement, the treasurer shall prepare a schedule on County Form 65STF, Surplus Tax Fund Ledger, of all excess payments received showing the name of the payor, the amount of the excess paid, and the taxing district, and deliver the schedule to the county auditor. The county auditor shall preserve the schedule and, if a refund is made thereafter, shall further note thereon the date and amount of each item refunded. In addition, when money is transferred from the surplus tax fund to the county general fund, the county auditor shall note the date and amount of the transfer on the schedule.

If an excess payment is not claimed within the three (3) year period after November 10 of the year in which payment was made, the county auditor shall transfer the excess from the surplus tax fund into the general fund of the county and it shall not thereafter be refunded. (IC 6-1.1-26-6) This type of "excess" collection is not to be confused with tax sale surplus items.

REFUNDS FOR ERRONEOUS OR EXCESSIVE TAX PAYMENT

A person, or his heirs, personal representative, or successors, may file a claim for refund of all or a portion of a tax installment which he has paid. The claim must be filed with the auditor of the county in which the taxes were originally paid, within three (3) years after the taxes were first due, on County Form No. 17T, Claim for Refund of Taxes, prescribed by the State Board of Accounts. (Our Emphasis)

The claim shall be based upon one of the following grounds: (1) taxes on the same property have been assessed more than once for the same year; (2) the taxes, as a matter of law, were illegal; or (3) there was a mathematical error either in the computation of the assessment upon which the taxes were based or in the computation of the taxes. (IC 6-1.1-26-1)

If the claim is for refund of taxes paid on an assessment made or determined by the State Board of Tax Commissioners and the claim is based upon the grounds provided in items (2) and (3) of the above cited statute (IC 6-1.1-26-1), the county auditor shall forward the claim to the State Board of Tax Commissioners for approval or disapproval. (IC 6-1.1-26-2)

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REFUNDS FOR ERRONEOUS OR EXCESSIVE TAX PAYMENT

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A refund claim which is not subject to review by the State Board of Tax Commissioners under IC 6-1.1-26-2 shall be either approved or disapproved by the county auditor, the county treasurer, and the county assessor. If the claim for refund is disapproved by either the county auditor, the county treasurer, or the county assessor, the claimant may appeal that decision to the State Board of Tax Commissioners. The claimant must initiate the appeal and the state board shall hear the appeal in the same manner as assessment appeals are initiated and heard. (IC 6-1.1-26-3)

The county auditor shall submit a refund claim to the board of county commissioners for final review after the appropriate county officials either approve or disapprove the claim and, if the claim is disapproved, an appeal to the State Board of Tax Commissioners is not initiated under IC 6-1.1-26-3. The county board of commissioners shall disallow a refund claim if one of the appropriate county officials does not approve the claim and an appeal to the State Board of Tax Commissioners was not initiated under IC 6-1.1-26-3. The county board of commissioners may either allow or disallow a refund claim which is submitted to it for final review. If the county board of commissioners disallows a claim, the claimant may appeal that decision to the State Board of Tax Commissioners. (IC 6-1.1-26-4)

When a claim for refund is allowed either by the county board of commissioners, the State Board of Tax Commissioners, or the Indiana tax court on appeal, the claimant is entitled to a refund. The amount of the refund shall equal the amount of the claim so allowed plus interest at six percent (6%) from the date on which the taxes were paid or payable, whichever is later, to the date of refund. The county auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount due the claimant. In the December settlement and apportionment of taxes immediately following a refund the county auditor shall deduct the amount refunded from the gross tax collections of the taxing units (districts) for which the refunded taxes were originally paid and shall pay the amount so deducted into the general fund of the county. (IC 6-1.1-26-5)

All tax refunds (except surplus tax), whether made under the provisions of the laws cited or as a result of invalid tax sales, shall be made without appropriation. The amounts disbursed from this account shall, at each December settlement be scheduled by taxing district, the amount for each taxing district deducted on line 38 of the apportionment sheet for such district, the total deducted on line 38 of the settlement.

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INVALID TAX SALE - REFUND OF PURCHASE MONEY

If, before the execution of a deed to real property sold for taxes, it is found that the sale was invalid, the county auditor shall not execute the deed, but he shall refund the purchase money plus six percent (6%) interest per annum from the county treasury to the purchaser, or his successors or assigns. The real property, if it is then eligible for sale, shall be placed on the delinquent list and again offered for sale. (IC 6-1.1-25-10)

Subsequent to the execution of the deed to real property sold for taxes, a county auditor shall refund the purchase money plus six percent (6%) interest per annum from the county treasury to the purchaser, or his successors or assigns, if it is found that: (1) the real property described in the deed was not subject to the taxes for which it was sold; (2) the delinquent taxes or special assessments for which the real property was sold were properly paid before the sale; or (3) the real property was properly redeemed before the execution of the deed. (IC 6-1.1-25-11)

A person, including the county, to whom a refund is made under this section shall execute, acknowledge, and deliver to the owner a deed conveying whatever interest the purchaser may have acquired by the tax sale deed. If a county is required to execute a deed under this section, the deed shall be signed by the board of county commissioners and acknowledged by the clerk of the circuit court. (IC 6-1.1-25-11)

A refund may not be made under this section while a court action initiated under IC 6-1.1-25-14 or 6-1.1-25-16 is pending. (IC 6-1.1-25-11)

TAX ON PROPERTY ACQUIRED BY A SCHOOL CORPORATION

Although a school corporation is exempt from having its property assessed for general property taxes it is not exempt from this payment of taxes already charged on the property it acquires. School corporations are not included in IC 6-1.1-36-7 as a governmental unit eligible for cancellation of tax on property it acquires. It follows that taxes charged on property acquired by a school corporation can be discharged only by payment of such taxes.

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NOTICES BY COUNTY AUDITOR TO GOVERNMENT UNITS -
TAX RATES - DUTY OF AUDITOR

If the county board of tax adjustment fails to complete the duties assigned to it within the time prescribed or to reduce aggregate tax rates so that they do not exceed the maximum rates permitted under IC 6-1.1-18, the county auditor shall calculate and fix the tax rate with each political subdivision of the county so that the maximum rate permitted under IC 6-1.1-18 is not exceeded.

When the county auditor calculates and fixes tax rates, he shall send a certificate notice of the rate he has fixed to each political subdivision of the county. He shall send these notices within five (5) days after publication of the notice to taxpayers of final tax rates.

When the county auditor calculates and fixes tax rates, his action shall be treated as if it were the action of the county board of tax adjustment. (IC 6-1.1-17-9)

DAILY DEPOSITS OF PUBLIC FUNDS

IC 5-13-6-1 requires all local officers who collect public funds to deposit funds daily on business days of the depository in the depository or depositories selected by the Board of Finance. Such funds shall be deposited in the same form in which they were received.

It is our position that all local officers who collect public funds shall make deposits not later than the next business day following the receipt of such funds to comply with the aforementioned statute.

QUESTIONS AND ANSWERS FROM THE COUNTY AUDITOR'S SPRING CONFERENCE

Question #1: Can a member of the county council work part-time for the county (in the same office her husband works in)?

Answer #1: Yes, if the part-time position is not a lucrative office and they have filed a conflict of interest statement.

Questions #2: Can a solid waste director also be its fiscal officer?

Answer #2: Yes, but we don't recommend it. If they do then they would be required to keep separate time records in accordance with IC 5-11-9-4.

Question #3: Could a solid waste director also be a member of the solid waste board?

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Answer #3: No, board members are comprised of elected officials. IC 13-21-3-5 sets the members of the solid waste board.

Question #4: Does a solid waste district's finance officer have to be a county auditor?

Answer #4: No, it does not have to be the county auditor. It may be a county official, city official, or anyone else the board chooses. IC 13-21-3-10 provides the hiring of a fiscal officer.

Question #5: If not, does a finance officer of a solid waste district have to be an elected official?

Answer #5: No, see answer #4 above.

Question #6: Should commissioners have ordinance in order to have control of policy; or is this an elected official control in each office? i.e. 1) days open; 2) sick and vacation days; (3) time sheets turned in at year end.

Answer #6: Each elected official is responsible for the functioning and performance of their office. Within the control of their office you would be required to follow the policies set by the county commissioners. Therefore, you have control but not complete control. The days in which your office is open is prescribed by statute and supported by Official Attorney General Opinion #37-1955. Sick and vacation days, by statute, are to be set by policy of the county commissioners through an ordinance. All employees of the county would be subject to this policy. Time sheets and service records are required to be kept by the State Board of Accounts. These forms may be kept by each office or accumulated in the auditor's office.

Question #7: Does the State Board of Accounts check extensively into any info received of shortage in receipts from year to year?

Answer #7: Absolutely! The State Board of Accounts reviews any information we receive from officials or taxpayers when allegations are made that cash might be missing.

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Question #8: Is there anywhere in the law that governs who determines whether the auditor has to be responsible for deductions, i.e. cancer insurance paid by employee, savings, checking, credit union, etc? I know in the law where it says you can do it - the question is - do the commissioners govern what will be done, or does the auditor?

Answer #8: The benefits which employees are to receive is governed by the county commissioners. The county auditor, as the fiscal agent, is responsible for the payroll, therefore, the auditor would be required to withhold whatever benefits are offered to employees.

Question #9: If the law for state called meetings (assessing officials) states you cannot pay more than \$66 based on IRS, does this mean that anyone receiving room reimbursement over \$66 should have the rest reported as income?

Answer #9: No, it just means that the \$66 is all that can be paid from unappropriated funds. The remainder will need to come from an appropriation in their budget or be paid personally.

Question #10: Can the ditch assessment be added onto the charge of current taxes, when a property goes on sale?

Answer #10: Yes, IC 6-1.1-24 states that all taxes and special assessments are to be considered to determine if a property has delinquencies thus including it in the tax sale. Ditch assessments are special assessments and should be included in the minimum bid price.

Question #11: When paying tax refunds, we have to research from the treasurer's duplicate books the amount the taxpayer has paid, and the dates paid to put on 17-T. We still ask the taxpayer for copies of their paid tax receipts to attach to the 17-T, and, if they do not find them, make a copy of the duplicate books pages ourselves and attach. Some taxpayers have questioned the request for copies of their statements, saying this is not a law and not required. Should we continue these requests, and/or copying duplicate books to attach? We also ask for letters from the original property owner that the refund belongs to another person, if this happens

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because of closing agreements or contract sales. However, main concern is the time taken to copy duplicate books if taxpayer will not/can not come up with their copies of paid receipts.

Answer #11: You should continue to ask for tax receipts. IC 6-1.1-26-5 is silent to what is necessary for refund. But IC 6-1.1-26-6 states the county treasurer or county auditor shall require reasonable proof of payment. The tax receipts are the most reasonable proof of payment.

Question #12: A parcel was in the October 1995 tax sale and there was no bid. We will have a tax sale this October and the parcel will be offered for the second time. If there is no bid on the parcel at this second tax sale can the county apply for a tax title deed or would it be necessary to offer the parcel again as there has been a two year lapse between tax sales?

Answer #12: It would appear by IC 6-1.1-24-6 that the county should start the process all over and offer the parcel the first time this year.

Question #13: If a municipality purchases a property at tax sale, but fails to obtain a deed in a timely manner, then acquires the property through quit claim deeds, is the municipality entitled to request the return of the tax sale surplus?

Answer #13: No, IC 6-1.1-24 states that the tax sale surplus may be returned as follows: first, to the owner of record who is divested by a tax deed; second, to the purchaser upon redemption; and thirdly, to the person with a substantial property interest.

Question #14: What can tax money collected under Cumulative Capital Development be used for? Can the county highway pay themselves for removal of extra dirt that was dug for a county parking lot?

Answer #14: The statutes that authorized the use of the cumulative capital development fund may be found in IC 36-9-14.5-2 and IC 36-9-14.5-8. The county highway could probably be paid for the removal of the dirt using cum cap development money but more information is needed.

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Question #15: If a county does not spend enough in a year to meet the bid requirements but goes ahead and bids, does an officeholder have to buy from the company the commissioners awarded the bid? Especially if that company is not less expensive per item?

Answer #15: Yes, if the county bids and signs contracts with vendors for certain items, all county officials would be required to abide by the contract.

Question #16: In payment of jury fees, are the total amounts for payment of serving or selection for jury duty, to be paid completely out of the general fund and supplemented by this new fee assessed or are all payments to be made from the new "Jury Fee Fund"? Does this also cover other jury expenses (i.e. mileage and meals)?

Answer #16: The payment of the juror's salaries are to be paid from the new supplemental fund but obviously if there are not enough fees to cover these juror's salaries then the county general fund will need to cover the difference. Other jury expenses would be paid from the county general fund.

Question #17: Concerning the 17T's - when there has been a State Tax Board determination. We have determinations from February which we are still waiting on the 17T forms

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Question #19: Our county allows the same rate for mileage as the state. I have heard that the state rate is to be raised on July 1st. If so, what will the rate be?

Answer #19: Effective July 1, 1997, the state rate for mileage was increased to \$.28 a mile.

Question #20: The commissioners used to encumber money in the Courthouse budget and the commissioners' budget for possible repairs and renovations to the courthouse. (This went on for 7 years.) Last year the commissioners were written up in the exit interview by the state. In 1997, an amount of \$927,000 was allowed to roll back into the general fund. Now the commissioners are going to adopt a Cumulative Courthouse Fund. Can this \$927,000 be transferred, after appropriating the money into a line item in the general, into a courthouse cumulative fund? Or maybe it can be transferred from the general fund directly into the cumulative fund?

Answer #20: No to both questions.

Question #21: Since the next reassessment doesn't start until 1999, can the county assessor use reassessment money in 1997 and 1998?

Answer #21: Yes, as long as the expense is for the upcoming reassessment. The majority of the money will be spent in 1999 but there is the possibility that expenses could be occurring now.

Question #22: Where can I get a manual for the duties a township trustee is suppose to be doing?

Answer #22: Please contact our township supervisors at (317)232-2520.

Question #23: Our county does not withhold social security/medicare on all of our township trustees. It was this way when I inherited the payroll. Should the full amount be withheld on these people?

Answer #23: You should contact the Internal Revenue Service regarding any questions pertaining to payroll withholdings.

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Question #24: Does HB1783 establish any rate of pay for the members of the new Board of Review?

Answer #24: This law changes the title of the County Board of Review to the County Property Tax Assessment Board of Appeals. No changes were made for compensation. Their compensation is still set by the county council per IC 6-1.1-28-3.

Question #25: Does the \$65 rate apply to all overnight accommodations by all elected officials? On travel reimbursement, how do we treat airline tickets?

Answer #25: IC 5-11-14-1 applies to State Board of Accounts called meetings for the auditors, treasurers, clerks, and recorders. Your reimbursement from unappropriated funds is limited to \$65 plus tax a night which is the state rate. The remaining balance will need to come from budgeted funds. IC 6-1.1-35-3 addresses the reimbursement for assessing officials when attending meetings of the state board of tax commissioners. These reimbursement rates are a little different than State Board of Accounts meetings. Review this statute. For all other travel, including airline tickets, would be reimbursed from appropriated funds at the rate which is set by the travel policy of the county.

Question #26: On release of an IRS Levy - can the state remove a federal liability? In releasing the liability does this also mean that the State Board of Accounts will not hold the auditor liable?

Answer #26: This is a legal question that should be addressed to your county attorney or the IRS.

Question #27: Our county attorney has advised us that the only ordinances that must be published are the ones that have a penalty or those which have a specific code reference. Is this true?

Answer #27: IC 5-3-1-4 addresses that when an ordinance is to be advertised by statute, how that advertising should be done. IC 36-4-6-14 also requires an ordinance to be published, before it takes effect, if the ordinance prescribes a penalty or forfeiture for a violation.

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Question #28: Does the auditor have to serve on the board of finance?

Answer #28: No, the county auditor is not a member of the board of finance.

Question #29: If the commissioners have a secretary, does that excuse the auditor from serving as a secretary?

Answer #29: IC 36-2-2-11 states the auditor shall attend all meetings and record the proceedings. Also IC 36-2-9-7 states the auditor shall perform the duties of clerk or if they cannot perform the duties and do not have a deputy or the deputy cannot attend, commissioners may deputize a person to perform the duties.

Question #30: On the salary ordinance, what is required? We have present wage, department request, commissioner's request and approved salary. Is all that necessary?

Answer #30: The minimum information that is required to be on the salary ordinance is the number for each office and the amount to be paid. Any additional information would be at your discretion. Many counties use the Form 144 as their detail on the salary ordinance.

Question #31: An exempt, salaried employee is required to work four Saturdays. Do the commissioners have the authority to grant him four extra days of "vacation pay" for his dedication to the county?

Answer #31: The board of county commissioners set the vacation policy, therefore, it is their decision whether this is a part of the policy. Any payment or accruing of vacation pay must be in compliance with the county's policy.

Question #32: On the annual financial report, the part that lists each fund, beginning and ending balance, receipts and disbursements, can that be done on a pc?

Answer #32: Yes, and we hope to computerize this report for your convenience.

Question #33: Can money generated from copies be spent on anything? Shouldn't it be put in the General Fund?

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Answer #33: All revenue generated from copies, except in the recorder's office which funds go to the recorder's perpetuation fund, should go to the general fund and the expenditure would be limited to what may be spent from the general fund.

Question #34: Is supplies and printed forms need to be bid?

Answer #34: Any purchases made that go over the threshold for the class would need to be bid.

Question #35: Our county clerk came back from their conference and gave me a copy of the new retention schedule, and said this is the new law. Do we still have to have the meeting and approve the list before destroying? The clerk said no.

Answer #35: The new county retention schedule developed by the state must be approved by the local public records commission before any records may be destroyed.

Question #36: Is the 01 salary classification only for items on the salary ordinance? What classification do jury claims, pauper attorney, witness fees, transcript cost, come under - 01 or 03?

Answer #36: 01 should be only these items covered by the salary ordinance. Jury fees, pauper attorney, witness fees, transcript costs, etc should be from the 03 classification - other services and changes.

Question #37: Is there a statute that provides for the establishment of a non-reverting fund for planning and zoning department called "Inspection and Testing Fees Fund"? Our county resolution provides that the remaining unspent monies can be spent by this department for "county development." How can this be audited if I have no support by law that the fund should be allowed to exist?

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Answer #37: This fund should be created by a Home Rule Ordinance. This fund with all the collections and disbursements should be accounted for in the auditor's records and all claims submitted and approved through the regular claim process.

Question #38: Does registration fees and mileage for this meeting come out of unappropriated money?

Answer #38: Registration fees should be paid from budgeted funds and mileage would be paid from unappropriated funds.

Question #39: Can property transfers be done by a marriage license or death certificate?

Answer #39: If these are used we recommend that an affidavit also be included.

Question #40: In reference to IC 6-1.1-25-7 time limit for execution of tax deed - termination of purchaser's lein. The time limit is 2 years from date of sale. If deed is not executed within this 2 year time limit, does the purchaser forfeit his purchase price? At this time we have 5 properties that are eligible for deeds from a 1995 tax sale. Should they be warned and when?

Answer #40: IC 6-1.1-25-4.6 described the three situations when a tax deed is not executed and what will be done with the purchase price. Review and determine the subsection your situation applies to. We are not aware of a statute that would require you to warn the owner in the 5 properties eligible for tax deed.

QUESTIONS AND ANSWERS FROM THE COUNTY TREASURERS' ANNUAL CONFERENCE

Question #1: Demand notices (by law) require treasurer's signatures - can they be signature stamp (as on warrants and payroll checks)???

Answer #1: IC 6-1.1-23-1.2 - must be signed by treasurer or designee of the treasurer. We think a signature stamp would be acceptable.

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Question #2: Re: added assessments, is there a deadline for AA? Our county assessor gave the county auditor an added assessment on November 6, 1996 to be billed by the county treasurer for payment November 10, 1996 - address Chicago, Illinois. We, the treasurer, will now be in a threatened law-suit. What defense can we use?

Answer #2: We contacted Tricia at the State Board of Tax Commissioners and were informed that AA's received after March 1 should not be billed prior to the next year.

Question #3: State Board of Accounts examiner informed me I am not correctly documenting my checks for deposit. She informed me I must write down each check received per day on my bank deposit ticket. Her explanation was, she couldn't verify whether the deposit was intact as received unless this was done. We have a print out or check register that is available to her. May I have a clarification or opinion?

Answer #3: As long as you have a listing of the payments received which make-up the deposit, you would not have to list the checks individually on the deposit ticket.

Question #4: Can a member of the county council work part-time for the county (In the same officer her husband works in)?

Answer #4: Yes, if it is not a lucrative position and they have filed a conflict of interest statement.

Question #5: When posting payments and the customer has delinquent tax due but their check is for the exact amount of current, which do we post to?

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- Answer #5: Recommendations -
1) If customer specifically requests payment be posted to current, then post to current.
2) If not, prorate payment to the delinquent penalties and taxes.
- Question #6: What is a "reverse" mortgage? Can you have a mortgage exemption if you have this?
- Answer #6: We have no idea. This is a question which should be posed to the State Board of Tax Commissioners.
- Question #7: When will the new records retention schedule for treasurers be available?
- Answer #7: The new state approved schedule, "cogrfin", is available now and has been distributed to each county. The local public records commission must adopt this schedule prior to the local officials using it.
- Question #8: What can we do about mobile home park owners who disassemble or demolish mobile homes, with delinquent taxes owing, and remove them from the park without obtaining a permit?
- Answer 8#: You should contact your local prosecutor because a person who moves, sells, or fails to report ownership of a mobile home to the assessor has committed a class "C" infraction according to Indiana Code.
- Question #9: Barrett Law - Please explain the County Treasurer's role in collecting Barrett law assessments, once certified by the city. Are we required to send a notice to the taxpayer or just place against the real estate and process through the normal channel to collect delinquent taxes, such as tax sale. Does it stay on the duplicate as a charge against the real estate?
- Answer #9: Barrett law assessments are to be added to the tax duplicate as additional assessments and collected in the same manner as real estate taxes, including the tax sale process if necessary.

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**QUESTIONS AND ANSWERS FROM THE CLERK OF THE CIRCUIT COURT'S
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- Question #1: For tickets issued in highway work zones there is an extra \$25 fine. Does this go into fines or highway work zone?
- Answer #1: IC 33-19-17-1(b)(5) states that highway work zone fees are to be distributed semiannually to the auditor of state for deposit in the state user fee fund.
- Question #2: What happens if a person doesn't file a conflict of interest and someone thinks they should? How can this be enforced?
- Answer #2: The local county prosecutor should be contacted.
- Question #3: What is the fastest way to get copies of older attorney general opinions?
- Answer #3: Local public library, state library, attorney general's office and possibly the internet.
- Question #4: If a council member moves out of his district during his term does he have to give up his seat and a caucus be held?
- Answer #4: Yes. IC 36-2-3-5.
- Question #5: (A) The code says a clerk can keep up to \$50 or 10% of a bond. Does the county need to adopt this in order for a clerk to take this money out? (B) Also, how can we keep this money in our budget to help pay someone to work with the bonds?
- Answer #5: (A) No, this is by statute.
(B) Beg your council.
- Question #6: When a bond is forfeited does it go into fines/foreitures or directly to the county auditor for common school fund?

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Answer #6: IC 35-33-8-7(e) states that if a bond is forfeited and the court has entered a judgment under subsection (d), the clerk shall transfer to the state common school fund: (1) any amount remaining on deposit with the court (less any fees retained by the clerk); and (2) any amount collected in satisfaction of the judgment.

You should contact the auditor of state's office to obtain the form to be used in making this transfer.

Question #7: Are clerks responsible to calculate the interest on judgments or child support arrearage?

Answer #7: No. The county prosecutor does that.

Question #8: Should a protective order case be closed at the time the order is approved or should it remain open for the year it remains in effect?

Answer #8: The case should remain open in case there are modifications or address changes.

Question #9: Should deputy clerks be allowed to marry couples outside the office's office hours? If so should they charge a fee?

Answer #9: This is at the discretion of the clerk.

Question #10: Please address administrative fees when dealing with a civil warrant or body attachment on small claims. Should administrative fees be collected along with the special death benefit in addition to the bond amount?

Answer #10: No.

Question #11: (A) Check on who is on records commission.
(B) Transfer from small claims to civil \$100 or \$105?
(C)\$25 court cost on moving on deferred prosecution for infractions?

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Answer #11: (A) This may be found in IC 5-15-6-1 or on page 12-18 of the clerk's manual.
(B) This may be found in IC 33-4-3-10 (circuit court) and IC 33-5-2-7 (superior court) and is \$70 to transfer a small claims to the civil plenary docket. This is in addition to the \$35 filing fee for a small claims for a total cost of \$105.
(C) IC 34-4-32-1, which is the deferral program statute, allows for a \$25 fine for a moving violation to be charged in addition to the user's fee.

Question #12: What are counter measurers? Where does it go? Are drug/abuse fees and counter measures the same thing?

Answer #12: See IC 33-19-6-7;-9;-10;-11

Question #13: License suspension for non-payment. Can a private attorney have a license suspended? If so who has the needed paperwork? How far behind does the payor have to be?

Answer #13: We assume you are referring to non-payment of child support and we have no idea. We suggest you contact state court administration-disciplinary commission.

Question #14: Why can't the clerk's office use the computer printouts of the total costs and fees collected/dispensed report, making copies to send to state, instead of transferring these numbers on a report of collections report?

Answer #14: Because General Form No. 362, Report of Collections, is a prescribed form and is required to be used by each and every county in the state unless a county has a computer generated form which has been approved by our office to be used in lieu of Form 362.

Question #15: Can a judge order a wage assignment for court costs and fines in a criminal case?

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Answer #15: This is a legal question which we cannot answer but we feel that you should be protected if you have a court order.

Question #16: Since we have the 2 new fees, \$2 jury fee & \$3 law enforcement training fee, do we have to put them on the daily books separately and do we need to have a new form to send to the auditor at the end of the month?

Answer #16: While the fees must be reported separately we don't think a new form will be necessary .